

Appl. No. 10/719,849
Amdt. Dated 09/17/04
Reply to Office Action of 08/17/04

Remarks/Arguments

Applicant would like to thank the examiner for the thorough review of the present application.

The examiner has rejected independent claim 1 under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent No. 6,082,049 to Hudson and has rejected independent claims 7 and 12 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,082,049 to Hudson, in view of U.S. Patent No. 2,713,506 to Wickstrom. Applicant has amended independent claims 1, 7 and 12 to recite, inter alia,

--said male and female portions having substantially symmetrical shapes wherein said central portion slot is formed within said female portion, said edge portion slot being isolated from said central portion slot such that said central portion slot maintains a fixed shape when said male and female portions are slidably engaged--.

Applicant respectfully submits neither Hudson nor Wickstrom disclose such a structural configuration. Hudson teaches away from the claimed invention because it includes a pair of holes 23 along its central portion (see FIG. 4), which are intended to receive fastening members therethrough to maintain the plate at a fixed position. No suggestion, teaching or motivation is provided for splitting Hudson's central portion into male and female portions to thereby selectively position the central portion about a framing stud. Wickstrom also teaches away from the claimed invention because as the male portion is engaged with the female portion, the shape of its slot becomes adjusted (see FIG. 1). Applicant has amended its independent claims to recite a slot that maintains a fixed shape when the male and female portions are engaged. Such a claimed feature insures that a dead bolt can be received through the slot as the male and female portions are adjustably engaged.

When making a nonobvious rejection, applicant respectfully submits that the examiner bears the burden of proof and a reference should be considered as a whole, and portions arguing against or teaching away from the claimed invention must be considered. See *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443, 230 USPQ 416 (Fed. Cir. 1986).

In view of these considerations, it is respectfully submitted that the rejection of


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the original claims should be considered as no longer tenable with respect to the currently amended independent claims 1, 7 and 12. All pending dependent claims necessarily include the recitations of their independent claims and therefore are also in condition for allowance.

Should the examiner consider necessary or desirable to make formal changes anywhere in the specification, claims and/or drawings, then it is respectfully asked that such changes be made by examiner's Amendment, if the examiner feels this would facilitate passage of the case to issuance. Alternatively, should the examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned attorney.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
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